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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 130312236-3236-01]

RIN 0648-BD05

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;  
Snapper-Grouper Fishery Off the Southern Atlantic States;  
Amendment 27

AGENCY: National Marine Fisheries Service (NMFS), National  
Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 27 (Amendment 27) to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (South Atlantic Council). If implemented, Amendment 27 and this rule would extend the South Atlantic Council's management responsibility for Nassau grouper into the Gulf of Mexico (Gulf) exclusive economic zone (EEZ); increase the number of allowable crew members to four on dual-permitted snapper-grouper vessels (i.e., vessels holding a South Atlantic Charter Vessel/Headboat Permit for Snapper-Grouper and a South Atlantic Unlimited or a

225-Pound Trip Limit Snapper-Grouper Permit) that are fishing commercially; remove the prohibition on retaining any fish under the aggregate bag limit for grouper and tilefish or the vermilion snapper bag limit by captain and crew of federally permitted for-hire vessels; modify the snapper-grouper framework procedures to allow acceptable biological catch levels (ABCs), annual catch limits (ACLs), and annual catch targets (ACTs) to be adjusted via an abbreviated framework process; and remove blue runner from the FMP. The purpose of this rule is to streamline management of Nassau grouper, improve vessel safety for dual-permitted vessels, implement consistent regulations regarding captain and crew retention limits for snapper-grouper species, expedite adjustments to snapper-grouper catch limits when new scientific information becomes available, and minimize socio-economic impacts to fishermen who harvest and sell blue runner.

DATES: Written comments must be received on or before [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments on the proposed rule, identified by "NOAA-NMFS-2013-0085" by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to

[www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0085](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0085),

click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Kate Michie, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 27, which includes an environmental assessment, an initial regulatory flexibility analysis (IRFA) and a regulatory impact review, may be obtained from the Southeast Regional Office Web Site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Kate Michie, telephone: 727-824-5305, or e-mail: [kate.michie@noaa.gov](mailto:kate.michie@noaa.gov).

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the FMP. The FMP was prepared by the South Atlantic Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

#### Background

The Magnuson-Stevens Act requires that NMFS and regional fishery management councils prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to end overfishing of stocks and to minimize bycatch and bycatch mortality to the extent practicable.

#### Extension of Management Authority for Nassau Grouper in the Gulf of Mexico to the South Atlantic Council

Amendment 27 includes an action to extend the South

Atlantic Council's jurisdiction for management of Nassau grouper into the Gulf. In 2012, the Gulf of Mexico Fishery Management Council (Gulf Council) and NMFS implemented the Generic Annual Catch Limit/Accountability Measures Amendment (Generic ACL Amendment), which included removing Nassau grouper from the FMP for Reef Fish Resources of the Gulf of Mexico (Gulf Reef Fish FMP). The final rule for the Generic ACL Amendment became effective on January 30, 2012 (76 FR 82044, December 29, 2011), except for the measures that removed the prohibition on the harvest or possession of Nassau grouper in the Gulf EEZ. The Gulf Council requested that the Secretary of Commerce designate the South Atlantic Council as the responsible council to manage Nassau grouper in the Gulf, which the Secretary did in a Notice of Agency Action published on December 16, 2011 (76 FR 78245). Therefore, in the final rule for the Generic ACL Amendment, NMFS delayed the effective date for removing the prohibition on the harvest or possession of Nassau grouper in the Gulf pursuant to the Gulf Reef Fish FMP, until the South Atlantic Council could extend its jurisdiction for Nassau grouper into the Gulf to prevent any lapse in the protective regulations necessary for Nassau grouper.

Through Amendment 27, the South Atlantic Council would assume management responsibility for Nassau grouper in Federal

waters of the Gulf. The current restrictions on the harvest or possession of Nassau grouper in the Gulf EEZ and South Atlantic EEZ would continue if Amendment 27 is approved for implementation. Nassau grouper has been under a harvest moratorium since 1992 due to concerns of overexploitation, and the current ACL for Nassau grouper in both the South Atlantic EEZ and Gulf EEZ is zero. This proposed rule would continue the restrictions on the harvest or possession of Nassau grouper in the Gulf EEZ and South Atlantic EEZ.

#### Increase in Crew Member Limit for Dual-Permitted Vessels

Currently, there is a crew size limit of three for vessels with both a South Atlantic Charter Vessel/Headboat Permit for Snapper-Grouper and a commercial South Atlantic Unlimited or 225-Pound Permit for Snapper-Grouper (referred to as "dual-permitted" vessels) that are fishing commercially. This crew size limit prevents a dual-permitted vessel from engaging in a charter vessel/headboat trip when the vessel is harvesting and possessing fish in excess of the recreational bag limits.

However, a safety concern arises under the current crew size regulations when dual-permitted vessels are spearfishing commercially under the South Atlantic Unlimited or 225-Pound Permit for Snapper-Grouper. The maximum crew size of three persons prevents fishermen from diving in pairs using the buddy

system while having a standby diver and captain at the surface, as recommended by the U.S. Coast Guard diving operations manual. Therefore, this rule would increase the crew size from three to four on dual-permitted vessels to allow two persons to remain on the vessel while there are two divers in the water, thereby increasing safety-at-sea.

#### Removal of Captain and Crew Bag Limit Retention Restrictions for Snapper-Grouper Species

The final rule to implement Amendment 16 to the FMP (Amendment 16) (74 FR 30964, June 29, 2009) prohibited the captain and crew of vessels operating as charter vessels or headboats (i.e., vessels with a valid South Atlantic Charter Vessel/Headboat Permit for Snapper-Grouper) from retaining the bag limits of gag, black grouper, red grouper, scamp, red hind, rock hind, coney, graysby, yellowfin grouper, yellowmouth grouper, yellowedge grouper, snowy grouper, misty grouper, vermilion snapper, sand tilefish, blueline tilefish, and golden tilefish to help end the overfishing of gag and vermilion snapper. The prohibition on retention of these species by captain and crew was expected to contribute to an overall reduction in harvest and incidental catch of gag and vermilion snapper. Amendment 16 also established multiple measures to end the overfishing of gag and vermilion snapper through quotas,

reduced bag limits, and a shallow-water grouper spawning closure. A recent stock assessment update for vermilion snapper indicates the species is no longer undergoing overfishing and is not overfished. Gag was last assessed in 2006, prior to the implementation of Amendment 16, and those assessment results indicated gag was undergoing overfishing and was approaching an overfished condition.

Since the implementation of Amendment 16, several management measures have been implemented to ensure the overfishing of vermilion snapper and gag does not occur, including ACLs and accountability measures (AMs), which are intended to maintain harvest at or below the ACLs. Analysis contained in Amendment 27 indicates the reduction in the harvest of those snapper-grouper species subject to the captain and crew bag limit retention restriction is not significant, and allowing the captain and crew to retain bag limit quantities of gag, black grouper, red grouper, scamp, red hind, rock hind, coney, graysby, yellowfin grouper, yellowmouth grouper, yellowedge grouper, snowy grouper, misty grouper, vermilion snapper, sand tilefish, blueline tilefish, and golden tilefish, would not negatively impact snapper-grouper stocks, including vermilion snapper and gag. Therefore, this rule would remove the current restriction that prohibits the captain and crew on a vessel



operating as a charter vessel or headboat from retaining the bag limits of the snapper-grouper species listed above.

#### Modify the Framework Procedures in the Snapper-Grouper FMP

Currently, among other things, the Framework Procedures in the FMP allow an ABC, ACL, and ACT to be modified for snapper-grouper species via the regulatory amendment process, which most often requires developing an amendment and associated National Environmental Policy Act (NEPA) analysis, and implementing the management measures through proposed and final rulemaking. This process can be lengthy. The lag time between when new scientific information becomes available and when catch levels can be adjusted has the potential to result in adverse impacts on the economic and biological environments of the snapper-grouper fishery. Therefore, this rule would allow an ABC, ACL, and ACT to be modified using an abbreviated framework procedure, whereby after the South Atlantic Council has taken final action to change an ABC, ACL, and/or ACT, the Council would submit a letter with supporting data and information to the NMFS Southeast Regional Administrator (RA) requesting the desired change to those applicable harvest parameters.

Based on the information provided by the South Atlantic Council, the RA would determine whether or not the requested modifications may be warranted. If the requested modifications

may be warranted, NMFS would develop the appropriate documentation to comply with NEPA and other applicable law, and propose the action through rulemaking. NMFS anticipates this expedited process will shorten the time it would take to make routine changes to harvest limits in response to new information, while allowing the public adequate time to comment on any change.

#### Remove Blue Runner from the FMP

The Magnuson-Stevens Act requires Councils to prepare FMPs for overfished species and for other species where regulation would serve some useful purpose, and where the present or future benefits of regulation would justify the costs. Blue runner was originally included in the FMP because it was thought to co-occur with other, more economically desirable species.

In the final rule to implement the Comprehensive ACL Amendment (77 FR 15916, March 16, 2012), all snapper-grouper species listed in the FMP (including blue runner) were evaluated to determine if they were still in need of Federal conservation and management. NMFS' guidelines for determining whether to include species in an FMP for purposes of Federal conservation and management are set forth in 50 CFR 600.340(b)(2).

Based on an evaluation of these criteria for all of the snapper-grouper species in the FMP, the Comprehensive ACL

Amendment removed 13 species from the FMP. Blue runner was not removed from the FMP at that time because it was determined to not meet the criteria for being removed from the FMP, and the final rule to implement the Comprehensive ACL Amendment established an ACL of 1,289,941 lb (585,107 kg) for blue runner.

In Amendment 27, the South Atlantic Council re-evaluated the need for Federal management of blue runner based on updated information. The majority of commercial and recreational blue runner harvest (99 percent) occurs off the state of Florida (in Federal and state waters combined), with 76 percent of blue runner landings harvested in state waters (using landings data from 2005-2011) and a large portion of the recreational landings harvested from shore. Florida manages blue runner in state waters. Florida regulations include a 2-fish bag limit or a limit of 100 lb (46 kg) of blue runner per day (whichever is greater) with a recreational fishing license, gear prohibitions for both commercial and recreational fishermen, and a commercial saltwater products license (SPL) requirement to harvest blue runner in amounts exceeding 100 lb (46 kg) per day. Bycatch of blue runner in state waters using allowable gear may be sold with a commercial SPL. Blue runner is primarily used as bait, is not commonly retained for human consumption, and is exempt from any Federal bag and possession limit restrictions. A

commercial Federal South Atlantic Unlimited or a 225-Pound Trip Limit Snapper-Grouper Permit is not required to harvest blue runner in state waters.

Based on the updated information above, the South Atlantic Council determined blue runner could be removed from the FMP without jeopardizing the health or sustainability of the stock. Therefore, this rule, if approved, would remove blue runner from the FMP.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with Amendment 27, the FMP, the Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA for this rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the objectives of and legal basis for this action are contained in the preamble. A

copy of the full analysis is available from the NMFS (see ADDRESSES). A summary of the IRFA follows.

The proposed rule would extend the South Atlantic Council's jurisdictional authority for management of Nassau grouper to include Gulf Federal waters and continue the harvest prohibition of Nassau grouper in the Gulf and South Atlantic EEZ; increase, from three to four, the number of crew members on any dual-permitted vessel (a vessel with both a South Atlantic for-hire snapper-grouper and a South Atlantic commercial snapper-grouper permit); remove the snapper-grouper species retention restrictions for captain and crew of vessels with a South Atlantic for-hire snapper-grouper permit; modify the South Atlantic Snapper-Grouper FMP framework procedure; and remove blue runner from the South Atlantic Snapper-Grouper FMP.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this rule does not implicate the Paperwork Reduction Act.

NMFS expects the proposed rule to directly affect commercial fishermen and for-hire vessel operators in the South Atlantic snapper-grouper fishery. The Small Business

Administration recently modified the small entity size criteria for all major industry sectors in the U.S., including fish harvesters. A business involved in finfish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$19.0 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide. For for-hire vessels, all qualifiers apply except that the annual receipts threshold is \$7.0 million (NAICS code 487210, recreational industries). The SBA periodically reviews and changes, as appropriate, these size criteria. On June 20, 2013, the SBA issued a final rule revising the small business size standards for several industries effective July 22, 2013 (78 FR 37398). This rule increased the size standard for commercial finfish harvesters from \$4.0 million to \$19.0 million. Neither this rule, nor other recent SBA rules, changed the size standard for for-hire vessels.

From 2007 through 2011, an annual average of 336 vessels with valid commercial South Atlantic snapper-grouper permits landed at least 1 lb (0.45 kg) of blue runner. These vessels generated dockside revenues of approximately \$2.1 million (2011) from all species caught in the same trips as blue runner, of

which \$111,000 (2011 dollars) were from sales of blue runner. Each vessel, therefore, generated an average of approximately \$6,250 in gross revenues, of which \$330 were from blue runner. Vessels in the coastal migratory pelagics fishery also harvested blue runner on some of their trips harvesting Spanish or king mackerel. In 2007-2011, an average of 176 vessels harvested at least 1 lb (0.45 kg) of king mackerel and 1 lb (0.45 kg) of blue runner. These vessels generated an average of about \$799,000 from sales of king mackerel and \$57,000 from sales of blue runner. For the same period, an average of 219 vessels harvested at least 1 lb (0.45 kg) of Spanish mackerel and 1 lb (0.45 kg) of blue runner. These vessels generated about \$352,000 from sales of Spanish mackerel and \$33,000 from sales of blue runner.

For over 2 decades, the commercial and recreational harvest of Nassau grouper in the South Atlantic and Gulf has been prohibited, so no revenue information on commercial vessels dependent on Nassau grouper is available. Based on the revenue information presented above, all commercial vessels affected by the rule can be considered small entities.

From 2007 through 2011, an annual average of 1,813 vessels had valid South Atlantic charter vessel/headboat (for-hire) snapper-grouper permits. As of January 22, 2013, 1,462 vessels

held South Atlantic for-hire snapper-grouper permits, and about 75 are estimated to have operated as headboats in 2013. The for-hire fleet consists of charter vessels, which charge a fee on a vessel basis, and headboats, which charge a fee on an individual angler (head) basis. Average annual revenues (2011 dollars) per charter vessel are estimated to be \$126,032 for Florida vessels, \$53,443 for Georgia vessels, \$100,823 for South Carolina vessels, and \$101,959 for North Carolina vessels. For headboats, the corresponding per vessel estimates are \$209,507 for Florida vessels and \$153,848 for vessels in the other states. Based on these average revenue figures, all for-hire operations that would be affected by the rule can be considered small entities.

NMFS expects the proposed rule would directly affect all federally permitted commercial vessels harvesting blue runner and for-hire vessels that operate in the South Atlantic snapper-grouper fishery. All directly affected entities have been determined, for the purpose of this analysis, to be small entities. Therefore, NMFS determined that the proposed action would affect a substantial number of small entities.

Because NMFS determined that all entities expected to be affected by the actions in this proposed rule are small entities, the issue of disproportional effects on small versus



large entities does not arise in the present case.

Extending the South Atlantic Council's jurisdictional authority for management of Nassau grouper has no direct effects on the profits of commercial and for-hire vessels, because there are no accompanying changes to the management measures for this species. Any future changes to the management for Nassau grouper in the Gulf or South Atlantic EEZ would pass through the usual regulatory process, although in the future it would be solely under the South Atlantic Council's regulatory process.

Increasing the maximum number of crew members on any dual-permitted vessel from three to four would generally affect only those vessels that opt to bring on board an additional crew member. Vessel owners/operators would likely weigh the additional costs and benefits of such an action. Direct costs would be in the form of compensation to the additional crew member. Benefits could come in the form of better safety conditions, especially on trips that involve diving, or higher fishing quality on for-hire vessel trips that could generate repeat customers and increase the vessel's net operating revenues. The net effect of this action is relatively unknown in the short term. This action would make the South Atlantic regulation on the maximum crew size of dual-permitted vessels consistent with the Gulf regulation.

Removing the snapper-grouper bag limit retention restrictions for the captain and crew of for-hire vessels (i.e., allowing the captain and crew to possess bag limits for all snapper-grouper species with allowable bag limits) could potentially increase the profits of for-hire vessels. These extra bag limits could be used as part of crew compensation, which would lower overall cost, or as a marketing tool to attract additional angler trips, which could bring in additional revenues. It is likely, however, that profit increases would be relatively minimal because of the small number of additional fish that could be kept if the retention restriction were removed. The total extra fish in a year that would result from allowing the captain and crew of for-hire vessels to keep bag limits is estimated to be about 51 fish on all charter trips and 138 fish on all headboat trips. From an enforcement perspective, this action would reduce confusion about which snapper grouper-species could be retained by the captain and crew of for-hire vessels.

Modifying the FMP framework procedure would have no direct effects on commercial and for-hire vessel profits. This modification would allow for faster implementation of changes in the ABCs, ACLs, and ACTs for any snapper-grouper species based on the most recent stock assessment. The effects of those

changes will be analyzed once they are considered by the South Atlantic Council.

Removing blue runner from the FMP would leave the species relatively unregulated in the South Atlantic EEZ, where 24 percent of the landings occurred from 2005-2011. As a result, commercial vessels could harvest as many blue runner as they can using whatever gear is most efficient for their operations. In principle, therefore, this action can be expected to result in overall profit increases to commercial vessels in the short term. Historically, however, blue runner has not been a major species targeted or landed by commercial snapper-grouper or coastal migratory pelagic vessels. During 2007-2011, revenues from blue runner accounted for an average of about 5 percent of total revenues generated by snapper-grouper commercial vessels that landed at least 1 lb (0.45 kg) of blue runner. These vessels would generate additional profits mainly if they increase their effort in harvesting blue runner. This would require some changes in their harvesting strategies that may only increase fishing costs. Many vessel operators may have deemed this cost increase not worth expending, as partly evidenced by the relatively small share that sales of blue runner contribute to total vessel revenues.

The case with commercial vessels targeting mainly Spanish

or king mackerel is different from that with vessels mainly dependent on snapper-grouper species. Under the no action alternative, a commercial snapper-grouper permit is required to possess and land blue runner. In addition, allowable gear types for harvesting any snapper-grouper species exclude gillnets, which are a gear type used in harvesting king and Spanish mackerel. Vessels which harvest Spanish or king mackerel but do not possess a commercial snapper-grouper permit must discard their catches of blue runner; or, even if they have the necessary commercial snapper-grouper permit, they may not use gillnets to harvest blue runner along with king and Spanish mackerel. For commercial vessels landing at least 1 lb (0.45 kg) of Spanish mackerel and 1 lb (0.45 kg) of blue runner, revenues from blue runner were about 10 percent of revenues from Spanish mackerel; and for commercial vessels landing at least 1 lb (0.45 kg) of king mackerel and 1 lb (0.45 kg) of blue runner, revenues from blue runner were about 5 percent of revenues from king mackerel. Removing blue runner from the FMP would allow these vessels to legally maintain their revenues and profits at current levels.

Similar to commercial vessels, for-hire vessels would, in principle, benefit from removing blue runner from the FMP. These vessels may take as many trips targeting blue runner as

they can. However, charter vessels and headboats accounted for only 2.4 percent and 2.5 percent, respectively, of total recreational landings of blue runner during 2007-2011. In addition, there is no record of target trips for blue runner by charter vessels, and target trips for blue runner by headboats are unknown. Given this information on landings and target trips, removing blue runner from the FMP would likely have minimal effects on the profits of for-hire vessels.

The long-term effects of removing blue runner from the FMP on commercial and for-hire vessel profits would depend on whether the harvest of blue runner is sustainable in the absence of Federal management of the species. Should blue runner undergo overfishing or become overfished, commercial and for-hire vessel catches of blue runner would decline and so would their profits. However, it should be noted that about 99 percent of blue runner are caught off of Florida waters, and if blue runner is removed from the FMP Florida could extend its fishing regulations into the EEZ. This could allow for continued sustainable management of the species. In addition, the South Atlantic Council expressed its intention to continue monitoring trends and landings of blue runner for possible future management actions affecting the species, should the need arise.

The following discussion analyzes the alternatives that were not preferred by the South Atlantic Council, or alternatives for which the South Atlantic Council chose the no action alternative.

Two alternatives, including the preferred alternative, were considered for extending the South Atlantic Council's jurisdictional authority for management of Nassau grouper. The only other alternative is the no action alternative. The South Atlantic Council decided two alternatives were sufficient, since the Secretary of Commerce has already designated the South Atlantic Council as the responsible fishery management council to manage Nassau grouper in the Gulf. These two alternatives are administrative in nature and therefore would have no direct effects on the profits of commercial and for-hire vessels.

Three alternatives, including the preferred alternative, were considered for modifying the crew size restriction for dual-permitted snapper-grouper vessels. The first alternative, the no action alternative, would maintain the crew size limit of three persons. This alternative would have no effects on vessel profits, but it would not address safety issues particularly related to diving trips. The second alternative would remove entirely the crew size limit on dual-permitted snapper-grouper vessels. This alternative would afford vessel owners/operators

more flexibility in selecting the optimal crew size for every fishing trip, and thus may be expected to result in higher profits than any of the other alternatives. However, this alternative would tend to complicate the enforcement of fishing rules that differentiate between a commercial and a for-hire fishing trip. Under the alternative, dual-permitted vessels could take a for-hire trip with every angler practically considered a crew member, and then sell their catch as if a commercial vessel trip was taken. In addition to being illegal, this practice could pose problems in tracking recreational versus commercial landings of snapper-grouper species for purposes of ACL monitoring. Moreover, accountability measures could be unduly imposed on one sector if sector ACLs could not be properly monitored.

Three alternatives, including the preferred alternative, were considered for modifying the bag limit restriction on snapper-grouper species for the captain and crew of permitted for-hire vessels. The first alternative, the no action alternative, would maintain the prohibition on captain and crew of for-hire vessels from retaining bag limit quantities of the following species: gag, black grouper, red grouper, scamp, red hind, rock hind, coney, graysby, yellowfin grouper, yellowmouth grouper, yellowedge grouper, snowy grouper, misty grouper,

vermillion snapper, sand tilefish, blueline tilefish, and golden tilefish. This alternative would not change the profits of for-hire vessels, but would also forgo any potential profit that could result from the preferred alternative. The second alternative would establish a bag limit of zero for the captains and crew of permitted for-hire vessels for all species included in the FMP. Under this alternative, captain and crew of for-hire vessels would tend to forgo annually about 275 fish in charter trips, and 4,291 fish in headboat trips. If these fish were used as part of crew compensation, losing them would increase the cost of fishing; if these fish were used as a marketing tool to attract additional angler trips, those trips and associated revenues would unlikely occur in the future. There is, therefore, a good likelihood that this alternative would adversely affect the profits of for-hire vessels, although the magnitude of effects would be relatively small.

Two alternatives, including the preferred alternative, were considered for modifying the FMP framework procedure. The only other alternative is the no action alternative. These two alternatives are administrative in nature and therefore would have no direct effects on the profits of commercial and for-hire vessels. Only one alternative was considered by the Council that would meet the purpose of this amendment and at same time



address the concerns raised by NOAA General Counsel (GC). The Council had initially proposed amending the framework procedure to allow for adjustments to ACLs via publication of a notice in the Federal Register. However, NOAA GC advised the Council that such a process would not meet current legal requirements and NMFS would likely disapprove it. Subsequently, the Council revised the alternative to incorporate NOAA GC suggestions.

Three alternatives, including the preferred alternative, were considered for modifying the placement of blue runner in a fishery management unit and/or modifying management measures for blue runner. The first alternative, the no action alternative, would have no effect on the profits of commercial and for-hire vessels in the snapper-grouper fishery. However, commercial vessels in the coastal migratory pelagics fishery that do not possess a commercial snapper-grouper permit would have to discard their catches of blue runner unless they secure the necessary permit. Without the necessary permit, they would experience revenue and profit reductions from discarding blue runner. If they wanted to continue their practice of harvesting and selling blue runner, they would have to purchase a commercial snapper-grouper permit. Their cost would increase especially because the commercial snapper-grouper permit is under a moratorium, and the likely purchase price of a

commercial snapper-grouper permit would be substantially higher than the administrative cost of securing an open access permit or renewing a commercial snapper-grouper permit. The second alternative would retain blue runner in the FMP, but would allow commercial harvest and sale of blue runner for vessels with a South Atlantic commercial Spanish mackerel permit. In addition, gillnets would be an allowable gear in the snapper-grouper fishery, although only for harvesting blue runner. This alternative would tend to maintain the current profitability of commercial vessels, especially in the coastal migratory pelagics fishery as these vessels would be allowed to harvest and sell blue runner without incurring additional costs through the purchase of commercial snapper-grouper permits. The third alternative would retain blue runner in the FMP, but would exempt the species from the commercial snapper-grouper permit requirement for purchase, harvest, and sale of snapper or grouper. This alternative would have the same effects on the profits of commercial vessels as the second alternative.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Headboat, Reporting and recordkeeping requirements, South Atlantic.

Dated: September 20, 2013.

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Alan D. Risenhoover,  
Director, Office of Sustainable Fisheries,  
performing the functions and duties of the  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 et seq.

2. In § 622.1, paragraph (d), Table 1, the entry for "FMP for the Snapper-Grouper Fishery of the South Atlantic Region" is revised and footnote 6 is added to read as follows:

§ 622.1 Purpose and scope.

\* \* \* \* \*

(d) \* \* \*

Table 1--FMPs Implemented Under Part 622

FMP title	Responsible fishery management council(s)	Geographical area
* * * * *		
FMP for the Snapper-Grouper Fishery of the South Atlantic Region	SAFMC	South Atlantic <sup>6</sup>
* * * * *		

\* \* \* \* \*

<sup>6</sup> Nassau grouper in the South Atlantic EEZ and the Gulf EEZ are managed under the FMP.

3. In § 622.2, the definition for "charter vessel" is revised to read as follows:

§ 622.2 Definitions and acronyms.

\* \* \* \* \*

Charter vessel means a vessel less than 100 gross tons (90.8 mt) that is subject to the requirements of the USCG to carry six or fewer passengers for hire and that engages in charter fishing at any time during the calendar year. A charter vessel with a commercial permit, as required under § 622.4(a)(2), is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew, except for a charter vessel with a commercial vessel permit for Gulf reef fish or South Atlantic snapper-grouper. A charter vessel that has a charter vessel permit for Gulf reef fish and a commercial vessel permit for Gulf reef fish or a charter vessel permit for South Atlantic snapper-grouper and a commercial permit for South Atlantic snapper-grouper (either a South Atlantic snapper-grouper unlimited permit or a 225-lb (102.1-kg) trip limited permit for South Atlantic snapper-grouper) is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than four persons aboard, including operator and crew. A charter vessel that has a charter vessel permit for Gulf reef fish, a commercial vessel permit for Gulf reef fish, and a valid

Certificate of Inspection (COI) issued by the USCG to carry passengers for hire will not be considered to be operating as a charter vessel provided--

(1) It is not carrying a passenger who pays a fee; and

(2) When underway for more than 12 hours, that vessel meets, but does not exceed the minimum manning requirements outlined in its COI for vessels underway over 12 hours; or when underway for not more than 12 hours, that vessel meets the minimum manning requirements outlined in its COI for vessels underway for not more than 12-hours (if any), and does not exceed the minimum manning requirements outlined in its COI for vessels that are underway for more than 12 hours.

\* \* \* \* \*

4. In § 622.33, paragraph (c) is removed and reserved and a note is added to paragraph (a) to read as follows:

§ 622.33 Prohibited Species.

(a) \* \* \*

Note to paragraph (a): Nassau grouper in the Gulf EEZ may not be harvested or possessed, as specified in § 622.181(b)(1).

\* \* \* \* \*

5. In § 622.38, paragraph (b)(2) is revised to read as follows:

§ 622.38 Bag and possession limits.

\* \* \* \* \*

(b) \* \* \*

(2) Groupers, combined, excluding goliath grouper--4 per person per day, but not to exceed 1 speckled hind or 1 warsaw grouper per vessel per day, or 2 gag per person per day. However, no grouper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero. (Note: Nassau grouper in the Gulf EEZ may not be harvested or possessed, as specified in § 622.181(b)(1).)

\* \* \* \* \*

6. In § 622.181, paragraph (b)(1) is revised and paragraph (b)(4) is added to read as follows:

§ 622.181 Prohibited Species.

\* \* \* \* \*

(b) \* \* \*

(1) Goliath grouper may not be harvested or possessed in the South Atlantic EEZ. Goliath grouper taken in the South Atlantic EEZ incidentally by hook-and-line must be released immediately by cutting the line without removing the fish from the water.

\* \* \* \* \*

(4) Nassau grouper may not be harvested or possessed in the

South Atlantic EEZ or the Gulf EEZ. Nassau grouper taken in the South Atlantic EEZ or the Gulf EEZ incidentally by hook-and-line must be released immediately by cutting the line without removing the fish from the water.

\* \* \* \* \*

7. In § 622.187, paragraphs (b)(2), (b)(5) and (b)(8) are revised to read as follows:

§ 622.187 Bag and possession limits.

\* \* \* \* \*

(b) \* \* \*

(2) Grouper and tilefish, combined--3. Within the 3-fish aggregate bag limit:

(i) No more than one fish may be gag or black grouper, combined;

(ii) No more than one fish per vessel may be a snowy grouper;

(iii) No more than one fish may be a golden tilefish; and

(iv) No goliath grouper or Nassau grouper may be retained.

\* \* \* \* \*

(5) Vermilion snapper--5.

\* \* \* \* \*

(8) South Atlantic snapper-grouper, combined--20. However, excluded from this 20-fish bag limit are tomtate, South Atlantic



snapper-grouper ecosystem component species (specified in Table 4 of Appendix A to part 622), and those specified in paragraphs (b)(1) through (7) and paragraphs (b)(9) and (10) of this section.

\* \* \* \* \*

§ 622.193 [Amended]

7. In § 622.193, paragraph (s) is removed and reserved.

8. In Appendix A to part 622, Table 4 is revised to read as follows:

Appendix A to part 622--Species Tables

\* \* \* \* \*

Table 4 of Appendix A to Part 622--South Atlantic Snapper-Grouper

Balistidae--Triggerfishes

Gray triggerfish, Balistes capriscus

Carangidae--Jacks

Bar jack, Caranx ruber

Greater amberjack, Seriola dumerili

Lesser amberjack, Seriola fasciata

Almaco jack, Seriola rivoliana

Banded rudderfish, Seriola zonata

Ephippidae--Spadefishes

Spadefish, Chaetodipterus faber

Haemulidae--Grunts

Margate, Haemulon album

Tomtate, Haemulon aurolineatum

Sailor's choice, Haemulon parrai

White grunt, Haemulon plumieri

Labridae--Wrasses

Hogfish, Lachnolaimus maximus

Lutjanidae--Snappers

Black snapper, Apsilus dentatus

Queen snapper, Etelis oculatus

Mutton snapper, Lutjanus analis

Blackfin snapper, Lutjanus buccanella

Red snapper, Lutjanus campechanus

Cubera snapper, Lutjanus cyanopterus

Gray snapper, Lutjanus griseus

Mahogany snapper, Lutjanus mahogoni

Dog snapper, Lutjanus jocu

Lane snapper, Lutjanus synagris

Silk snapper, Lutjanus vivanus

Yellowtail snapper, Ocyurus chrysurus

Vermilion snapper, Rhomboplites aurorubens

Malacanthidae--Tilefishes

Blueline tilefish, Caulolatilus microps

Golden tilefish, Lopholatilus chamaeleonticeps

Sand tilefish, Malacanthus plumieri

Percichthyidae--Temperate basses

Wreckfish, Polyprion americanus

Serranidae--Groupers

Rock hind, Epinephelus adscensionis

Graysby, Epinephelus cruentatus

Speckled hind, Epinephelus drummondhayi

Yellowedge grouper, Epinephelus flavolimbatus

Coney, Epinephelus fulvus

Red hind, Epinephelus guttatus

Goliath grouper, Epinephelus itajara

Red grouper, Epinephelus morio

Misty grouper, Epinephelus mystacinus

Warsaw grouper, Epinephelus nigritus

Snowy grouper, Epinephelus niveatus

Nassau grouper, Epinephelus striatus

Black grouper, Mycteroperca bonaci

Yellowmouth grouper, Mycteroperca interstitialis

Gag, Mycteroperca microlepis

Scamp, Mycteroperca phenax

Yellowfin grouper, Mycteroperca venenosa

Serranidae--Sea Basses

Black sea bass, Centropristis striata

Sparidae--Porgies

Jolthead porgy, Calamus bajonado

Saucereye porgy, Calamus calamus

Whitebone porgy, Calamus leucosteus

Knobbed porgy, Calamus nodosus

Red porgy, Pagrus pagrus

Scup, Stenotomus chrysops

The following species are designated as ecosystem component species:

Cottonwick, Haemulon melanurum

Bank sea bass, Centropristis ocyurus

Rock sea bass, Centropristis philadelphica

Longspine porgy, Stenotomus caprinus

Ocean triggerfish, Canthidermis sufflamen

Schoolmaster, Lutjanus apodus

\* \* \* \* \*

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